Public Notice

US Army Corps of Engineers
Fort Worth District

Number: CESWF-95-RGP-11

Activity: Exploration and Production Wells

Date: March 11, 1996

This public notice is to inform you of the issuance of the Regional General Permit listed above on March 11, 1996. The permit will automatically expire on March 10, 2001, unless it is previously revoked, modified or extended.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

U.S. Army Engineer District
Regulatory Branch
PO Box 17300
Fort Worth, TX 76102-0300
(817) 334-2681

U.S. Army Engineer District
Regulatory Branch
4101 Jefferson Plaza, NE
Albuquerque, NM 87109-3435
(505) 342-3283

REGIONAL GENERAL PERMIT

EXPLORATION AND PRODUCTION WELLS

Interested parties are hereby notified that, in accordance with Title 33 CFR 325.2(e), published in the Federal Register on November 13, 1986, the Fort Worth and Albuquerque districts of the U.S. Army Corps of Engineers (USACE) authorize the work described herein by regional general permit pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

The purpose of this regional general permit is to expedite the authorization of minor recurring work. This regional general permit contains provisions intended to protect the environment, including natural and cultural resources. Work that will not comply with these terms and conditions may require authorization by individual permit. However, compliance with the provisions of this regional general permit does not guarantee authorization of the proposed work by this regional general permit. Work or structures that will have unacceptable impacts on the public interest are not authorized. Activities requiring Department of the Army authorization not specifically covered by this regional general permit are prohibited unless authorized by a separate permit.

This regional general permit replaces the regional general permits issued by the Fort Worth District as SWF-89-DISTRICT-RGP-11 and the Albuquerque District as TX-OYT-0585, both of which expired on August 16, 1995.

SCOPE OF WORK:

Work authorized by this regional general permit is limited to the discharge of dredged or fill material into waters of the United States, including wetlands and navigable waters of the United States, associated with the construction and operation of oil, gas and water wells and their supporting structures. Activities that may be authorized by this regional general permit include, but are not limited to, the construction of drilling pads, reserve and mud pits, access roads, dikes, levees, and production facilities. Impacts to waters of the United States, including wetlands, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensatory mitigation shall be required for unavoidable adverse impacts to waters of the United States. Activities that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States are not authorized by this regional general permit.

Activities in waters of the United States authorized by this regional general permit are subject to the following limitations:

1. Drilling Site: The discharge of dredged and fill material associated with land clearing and leveling and for the construction of drilling pads, reserve and mud pits, water pits, dikes, levees, and associated facilities is limited to an area of 2.5 acres, not including areas for production facilities and access roads. However, both the size of the drilling site and the amount of dredged

and fill material discharged must be the minimum necessary to accomplish the work. Borrow material used to construct reserve, water, and mud pit levees must be obtained from inside the levee if the material is suitable for such use. All pits shall be suitably lined with an impervious material. The location of drilling sites shall avoid waters of the United States, including wetlands, where practicable alternative sites exist. This permit does not authorize any drilling site located within 1,200 feet of an unrestored drilling site (see "Drilling Termination" and "Well Abandonment" sections below) located in a water of the United States, within 600 feet of any restored drilling site located in a water of the United States, or within 1,200 feet of the toe of any levee, dike, dam or other work built with Federal funds for flood control or water supply, or by any state or local government without written approval from the appropriate agency. All fill material placed into waters of the United States shall be clean, of suitable quality, and free of contaminants in toxic quantities.

2. Access Roads: The clearing of vegetation for access roads is limited to a width of 40 feet. Turn-arounds up to 90 feet in diameter may be constructed at one-mile intervals along access roads. Adverse impacts to waters of the United States, including wetlands, caused by the construction of access roads and turn-arounds shall be minimized by such means as taking the shortest practicable route through waters of the United States, utilizing existing roads, following previously disturbed areas to the maximum extent practicable, and limiting the width of ground disturbance in constructing access roads and turn-arounds to the minimum amount necessary. Crossings of waters of the United States shall be avoided where practicable alternatives exist. Roads shall be designed to pass low flows and expected high flows and not to interfere with the migration of aquatic organisms or create impoundments.

All access roads raised above the existing ground elevation in wetlands must be suitably bridged or culverted to minimize adverse impacts to local drainage patterns. Roads shall not promote the drainage of wetlands or cause unnecessary impoundment of water. Culverts for roads in wetlands shall be spaced no further than 500 feet apart and at all surface drainages. Bridges shall provide an opening at least six feet wide. Roadside borrow ditches shall not be continuous; each section of ditch shall be no longer than 300 feet and shall be separated from adjacent sections of ditch by at least 50 feet of unexcavated ground.

3. Production Facilities: Production facilities shall be located outside of wetlands whenever practicable to minimize adverse impacts to the aquatic environment, provide easier access to these facilities, reduce flood damage, and lessen the potential for contaminating surface water. Production facilities that must be located in wetlands should be centrally located to service as many wells as practicable. The clearing of vegetation in waters of the United States for storage and production facilities is limited to one acre. Storage and production equipment shall be properly diked to contain spills and leakage. Production pipelines constructed through waters of the United States should follow previously disturbed areas such as access roads, fencelines, and utility line rights-of-way as much as possible to minimize adverse impacts to the aquatic ecosystem.

4. Erosion and Water Control: All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be taken as necessary. Damage resulting from sedimentation and/or erosion shall be repaired.

5. Drilling Termination: Upon completion of drilling activity, a thorough and extensive cleanup operation must be conducted, including removing from the drilling site to an upland disposal site all saltwater, drilling mud, brine, hydrocarbons, and any substances considered toxic under federal regulations. Only equipment and supplies necessary for operation of the well shall remain onsite. All pits shall be filled within 90 days following the termination of drilling. The disposal of drilling mud and control of accidental spills and discharges shall comply with all applicable state and federal regulations. Unless specifically authorized by the USACE, the portion of the pad that is no longer needed for well operation and maintenance shall be removed and the area restored to preconstruction contours and conditions within 90 days following the termination of drilling. Restoration shall include the establishment of an appropriate native grass-and-forb herbaceous groundcover and replanting of native trees and shrubs that are suitable for the site wherever practicable. The applicant shall notify the USACE of the status of the well, whether abandoned or producing, within 90 days of drilling termination. See Appendix C for further guidance and requirements concerning mitigating adverse impacts to waters of the United States.

6. Well Abandonment: A well must be plugged and capped in accordance with state regulations prior to abandonment. Unless specifically authorized by the USACE, all drilling pads, dikes, levees, structures and their foundations, and access roads shall be removed and mud and reserve pits filled. The areas shall be returned to preconstruction contours and protected against erosion by suitable means. Fill material removed from the site shall not be disposed of in a water of the United States without separate USACE authorization. The restoration of abandoned well sites shall be completed within 90 days of the date the well is plugged.

LOCATION OF WORK:

The provisions of this regional general permit apply to all waters of the United States within the regulatory boundaries of the Fort Worth and Albuquerque districts within the states of Texas and Louisiana (see attached map, Appendix A).

WATER QUALITY CERTIFICATION:

The Texas Natural Resource Conservation Commission (TNRCC), Railroad Commission of Texas (RCT), and Louisiana Department of Environmental Quality (LDEQ) have certified the discharges authorized by this permit pursuant to Section 401 of the Clean Water Act.

AUTHORIZATION FROM OTHER AGENCIES:

The permittee is responsible for obtaining any additional federal, state, or local permits that may be required, which include, but are not limited to:

1. When streambed materials such as sand, shell, gravel and marl are to be disturbed or removed from state-owned waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. All activities occuring on lands owned or managed by the Texas Parks and Wildlife Department require a signed agreement from that agency prior to commencing operations.

2. Activities outside the permit area of the USACE that may affect a federally listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service to prevent a violation of the Endangered Species Act under Section 9.

3. All activities in Texas located on lands under the jurisdiction of the General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds in Texas may require an easement from the General Land Office.

4. Any work on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that authority or agency.

5. Projects involving government property on USACE reservoirs will require submission of detailed design information to the reservoir manager and the manager's approval of the proposed activity.

6. Activities within a 100-year floodplain may require a permit from the local floodplain administrator or the TNRCC (in Texas). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.

7. Activities such as clearing, grading, and excavation that would disturb five or more acres of land may require a National Pollutant Discharge Elimination System storm water management permit from the U.S. Environmental Protection Agency, Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas Texas 75202.

8. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Tex. Nat. Res. Code Ann. §91.101, may require authorization from the Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967.

9. The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary

of State, or other delegated official. Proposed activities affecting an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 North Mesa Street, El Paso, Texas 79902.

CONDITIONS OF THE REGIONAL GENERAL PERMIT:

In addition to limitations discussed in the scope of work, projects authorized by this regional general permit are subject to the general conditions contained in Appendix B and, for projects requiring water quality certification from the TNRCC, the standard provisions of the TNRCC Section 401 Water Quality Certification, Pages 1-3 of 3, dated January 17, 1996.

APPLICATION PROCEDURES:

Applications for authorization under this regional general permit must include a written description of the proposed project, proposed work schedule, and the address and telephone number of a point of contact who can be reached during normal business hours. The information may be assembled in a format convenient to the applicant. A description of the project must include at least the following information, as applicable:

1. A vicinity map, such as a county map or USGS topographic map, that shows the location of all work associated with the proposed project, including the drilling pad, access roads, borrow pits, and disposal sites. This map, or accompanying map, must also show the project area in relation to any nearby wells, access roads, highways and county roads, and other pertinent features. A ground survey is not required to obtain this information.

2. A description of the proposed activities and structures, such as the dimensions and/or locations of drilling pads, reserve and mud pits, production and storage facilities, access roads, borrow pits, and disposal areas. A description of the proposed access roads shall include such information as the road's height and length, width of the cleared right-of-way, location of each crossing of a water of the United States, size and spacing of culverts and bridges, and plan and profile views of all crossings of waters of the United States. Cross-section views of associated fills, excavations, and associated structures, both permanent and temporary, that would occur in waters of the United States, including wetlands.

3. The volume of material proposed to be discharged into and/or excavated from waters of the United States and a description of the nature and source of the material.

4. A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work and a descriptioin of the project's likely impact on the aquatic environment.

5. A written discussion of the purpose and need of the project and the alternatives considered and rationale for selecting the proposed alternative as the least environmentally

damaging practicable alternative. Practicable alternatives that do not involve a discharge into a special aquatic site, such as wetlands, are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.

6. A compensatory mitigation plan for unavoidable adverse impacts to the aquatic ecosystem. This plan shall include a description of proposed appropriate and practicable actions that would restore, enhance, protect, and/or replace the functions and values of the aquatic ecosystem unavoidably lost in the project area because of the proposed work (see Appendix C).

7. A statement disclosing whether any species listed as threatened or endangered under the Endangered Species Act might be affected by, or found in the vicinity of, the proposed project should be included in the application. Direct coordination with the U.S. Fish and Wildlife Service (FWS) concerning the potential impact of the entire project on threatened and endangered species is strongly encouraged.

8. Any other relevant information, such as information regarding cultural resources, the proximity of the project to ecologically sensitive areas, and project impacts on local/regional hydrology.

Address applications and inquiries regarding proposed activities to the district office within whose boundaries the proposed project falls (see Appendix A):

Fort Worth District: Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-OD-R, P.O. Box 17300, Fort Worth, TX 76102-0300, telephone: (817) 334-2681, fax: (817) 334-2120.

Albuquerque District: El Paso Regulatory Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESWA-CO-R-EP, P.O. Box 6096, Fort Bliss, TX 79906-0096, telephone: (915) 568-1359, fax: (915) 568-1348.

Work may not proceed prior to written notification from the District Engineer that the project meets the terms and conditions of the regional general permit. It is the applicant's responsibility to insure that the authorized structures and activities meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this regional general permit may be considered for authorization by individual permit.

This permit shall become effective on the date of the signature of the District Engineers, or their authorized representative, and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Activities authorized under this permit that have commenced (i.e. are under construction), or are under contract to commence in reliance on this permit, will remain authorized provided the activity is completed within twelve months of

the expiration, modification, or revocation of the permit, unless discretionary authority has been exercised by the USACE on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:
FOR THE DISTRICT ENGINEERS:

ORIGINAL SIGNED

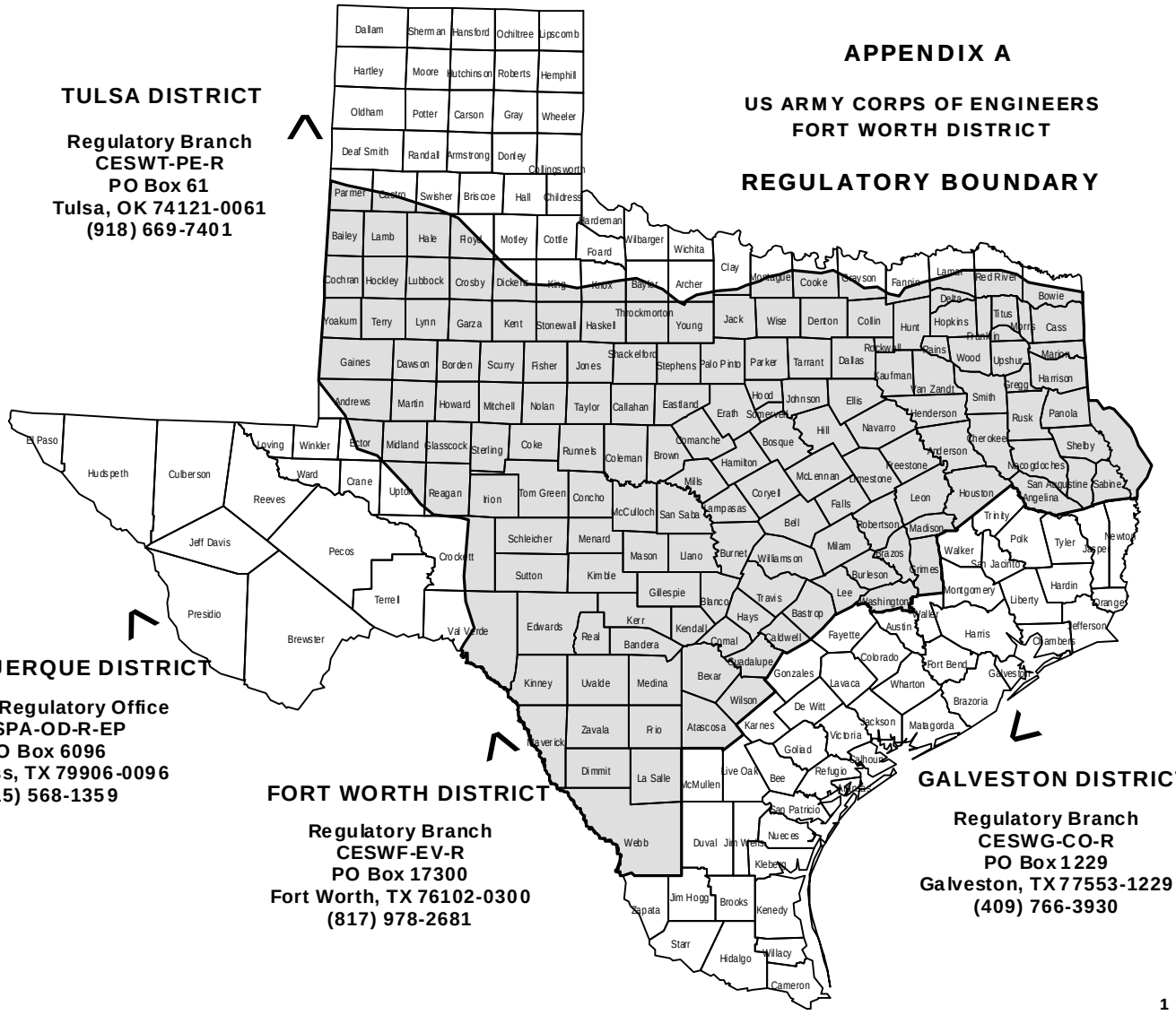
Peter T. Madsen
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Lloyd S. Wagner
Lieutenant Colonel, EN
District Engineer
Albuquerque District

APPENDIX A

US ARMY CORPS OF ENGINEERS
FORT WORTH DISTRICT

REGULATORY BOUNDARY



TULSA DISTRICT

Regulatory Branch
CESWT-PE-R
PO Box 61
Tulsa, OK 74121-0061
(918) 669-7401

ALBUQUERQUE DISTRICT

El Paso Regulatory Office
CESPA-OD-R-EP
PO Box 6096
Fort Bliss, TX 79906-0096
(915) 568-1359

FORT WORTH DISTRICT

Regulatory Branch
CESWF-EV-R
PO Box 17300
Fort Worth, TX 76102-0300
(817) 978-2681

GALVESTON DISTRICT

Regulatory Branch
CESWG-CO-R
PO Box 1229
Galveston, TX 77553-1229
(409) 766-3930

1 April, 1998

APPENDIX B

GENERAL CONDITIONS OF THE REGIONAL GENERAL PERMIT FOR EXPLORATION AND PRODUCTION WELLS

1. In verifying authorization under this regional general permit, the Department of the Army relies in part on the information provided by the permittee. If that information proves to be false, incomplete, or inaccurate, the authorization may be modified, suspended, or revoked, in whole or in part.

2. Structures and activities authorized by this regional general permit shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.

3. This regional general permit should not be considered as an approval of the design features of any authorized structure or work or an implication that such is considered adequate for the purpose intended. This permit does not authorize any damage to private property, invasion of property rights, or any infringement of federal, state, or local laws or regulations. Nor does it relieve the permittee of the requirement to obtain a permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a regulatory floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.

4. This regional general permit may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized by this permit are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that immediate suspension of the project would be in the public interest.

5. Any modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.

6. This permit does not authorize the interference with any existing or proposed Federal project. The permittee shall not be entitled to compensation for damage or injury to the structures or activities authorized herein which may result from existing or future operations undertaken by the United States in the public interest.

7. No attempt shall be made by the permittee to prevent the full and free public use of all navigable waters of the United States at or adjacent to the project authorized herein.

8. There shall be no unreasonable interference with navigation by the existence or use of the permanent and temporary structures authorized herein.

9. The permittee shall make every reasonable effort to conduct the activities authorized herein in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly hard mast-producing trees such as oaks and hickories.

10. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to assure that the activity being performed under this authorization is in accordance with the terms and conditions prescribed herein.

11. The impact of activities authorized by this permit on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP), shall be taken into account by the U.S. Army Corps of Engineers (USACE) prior to the initiation of work. If previously unknown cultural resource sites are encountered during work authorized by this permit, the appropriate USACE district shall be notified and the sites avoided until the USACE can assess their eligibility for listing in the NRHP. Sites determined to be eligible for listing in the NRHP shall be mitigated in consultation with the USACE. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest which occur in the permit area.

12. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during construction, and all exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

13. All temporary fills shall be removed in their entirety to an upland area.

14. All construction activities in federally maintained channels and/or waterways shall be coordinated for required setback distances with the appropriate USACE area or district office prior to application for a permit.

15. Heavy equipment working in wetlands shall be placed on mats, or other measures shall be taken to minimize soil disturbance.

16. No authorization shall be granted under this regional general permit for an activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or for an activity that is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

17. The permittee shall properly maintain any structure or fill authorized by this permit, including maintenance to ensure public safety.

18. Discharges of dredged or fill material shall not occur in the proximity of a public water supply intake.

19. The activity shall not occur in a component of the National Wild and Scenic River System.

20. Stream realignment is not authorized under this permit.

21. Discharges of dredged or fill material into waters of the United States shall be avoided or minimized through the use of other practicable alternatives.

22. Activities shall not restrict or impede the passage of normal or expected high flows or cause the relocation of water unless the primary purpose of the fill is to temporarily impound water.

23. The project shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

24. All structures shall be able to withstand the expected forces of flowing water, wave action, and the wake of passing vessels.

25. This permit does not authorize the discharge of dredged or fill material into waters of the United States for purposes of disposal and/or reclamation.

26. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

APPENDIX C

MITIGATING ADVERSE IMPACTS TO WATERS OF THE UNITED STATES

U.S. Army Corps of Engineers (USACE) evaluation of a project proposal submitted for authorization under this permit includes a determination of whether the applicant has taken sufficient measures to **mitigate** the project's likely adverse impacts to the aquatic ecosystem. Applicants should employ the following three-step sequence in mitigating likely adverse project impacts: 1) take appropriate and practicable measures to **avoid** potential adverse impacts to the aquatic ecosystem; 2) employ appropriate and practicable measures to **minimize** unavoidable adverse impacts to the aquatic ecosystem; and 3) undertake appropriate and practicable measures to **compensate** for adverse impacts to the aquatic ecosystem that cannot be reasonably avoided or minimized. **Compensatory mitigation**, then, is the restoration, enhancement, creation, or preservation of wetlands and other waters of the United States to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

Compensatory mitigation should replace those aquatic system functions that would be lost or impaired because of the proposed activity. The appropriate amount and type of compensatory mitigation depends on the nature and extent of the project's likely adverse impact on those functions performed by the aquatic area(s) that would be impacted. These functions include, but are not limited to, flood storage and conveyance; providing habitat for fish, aquatic organisms, and other wildlife, including endangered species; sediment and erosion control; groundwater recharge; nutrient removal; water supply; production of food, fiber, and timber; and recreation. Compensatory mitigation should also be commensurate with the scope and degree of the anticipated impacts and be practicable in terms of cost, existing technology, and logistics, in light of the overall project purpose.

In general, in-kind compensatory mitigation is preferable to out-of-kind and should occur as close to the location of the adverse impacts as practicable, generally in the same watershed. In some cases, it is acceptable to provide partial compensation at one location, such as the impact site, with the remainder occurring at an off-site location.

Normally, restoration or enhancement of wetland functions is preferable to wetland creation because the probability of successfully restoring or enhancing wetlands is greater than the probability of successfully creating new wetlands, and restoration and enhancement activities are less likely to impact upland and open water habitats. The preservation of existing wetlands is appropriate as compensatory mitigation only in exceptional situations.

Compensatory mitigation plans should include a thorough description of the proposed mitigation area; a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures; plan and cross-section drawings of pertinent work and structures; a statement explaining how adverse impacts to local hydrology will be minimized; and a proposal for monitoring the success of the proposed mitigation plan. Generally, monitoring should continue for at least two years after mitigation activities are completed, providing planting survival requirements have been achieved. To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a deed restriction, may be required.

Attachment 1 - Dredge and Fill Certification
USCOE Permit No. CESWF-95-RGP-11
January 17, 1996
Page 1 of 3

WORK DESCRIPTION: As described in public notice dated November 24, 1995.

SPECIAL PROVISIONS: Construction of any water wells should follow the minimum guidelines under 30TAC, Chapter 338. For further information regarding these guidelines for water wells construction, please contact Mr. Rick Wilder at (512) 239-0541 or Mr. Steve Wiley at (512) 239-0537 in the Compliance Support Section of the TNRCC.

GENERAL: **This conditional certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the application or joint public notice and shall expire 5 years from the date of issuance of the Corps of Engineer (COE) permit.** This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The TNRCC reserves the right to require full joint public notice on a request for minor revision. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TNRCC or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the Corps of Engineers and shall be followed by the permittee or any employee, agent, contractor or subcontractor of the permittee during any phase of work authorized by a Corps permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative and Numerical Criteria.

2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life or to terrestrial life.

3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TNRCC, Emergency Spill Response, at (512) 463-7727.

4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.

5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.

6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.

7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.

8. Dredge Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.

9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TNRCC, Emergency Spill Response, shall be contacted at (512) 463-7727. Dredging activities shall not be resumed until authorized by the Commission.

10. Contaminated water, soil or any other material shall not be allowed to enter a watercourse. Noncontaminated stormwater from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.

11. Stormwater runoff from construction activities (US EPA Category X) are governed by the requirements of the US Environmental Protection Agency. Applications to apply for a general permit are to obtained from Region 6, US EPA at (214) 665-7185.

12. Upon completion of earthwork operations all temporary fills shall be removed from the watercourse/wetland and areas disturbed during construction shall be seeded, riprapped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely effect the biological, chemical or physical properties of the receiving waters.

13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.

14. Where the control of weeds, insects and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.

15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.

16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms or putrescible sludge deposits or sediment layers which adversely affect benthic biota or any lawful uses.

17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes and bays.

18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition, foaming or frothing of a persistent nature is avoided and surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.

19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.